

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department- Erstwhile Khammam District - Revision Petition filed by Kilaru Nagaiah S/o.Veeraswamy R/o.Ganugapadu village, Chandrugonda Mandal, Khammam District (Now Bhadradi Kothagudem District) against the orders in CMA No.26/98, dated 05.12.2000 of Agent to Government & Project Officer, ITDA, Bhadrachalam, erstwhile Khammam District – Revision Petitioner expired - Action abated – Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 29

Dated: 10-07-2023 ,
Read the following:-

- 1) Revision Petition filed by Sri Kilaru Nagaiah S/o Veeraswamy R/o Ganugapadu(v) Chandrugonda (M) Khammam District dated 10.07.2005.
- 2) Govt.Memo.No.5970/LTR-2/2005-1, dated 16.07.2005.
- 3) From the District Collector, Khammam, letter Rc.No.F2/CMA-26/98, dated 06.04.2006.
- 4) Govt.Letter.No.5970/LTR-2/2005-2, dated 16.07.2007, 3.8.2007, 17.10.2016, 24.12.2016, 17.02.2020, 8.3.2017, 27.04.2017, 7.6.2017 and 13.10.2020.
- 5) From the Tahsildar, Chandrugonda Mandal, Bhadradi Kothagudem District, letter Rc.No.B/236/2020, dated 4.11.2020.

ORDER:-

In the reference 1st read above, Sri Kilaru Nagaiah S/o Veeraswamy R/o Ganugapadu (V) Chandrugonda (M) Khammam District has filed Revision Petition before the Government aggrieved by the orders of the Agent to Government, Khammam in CMA No.26/98, dated 05.12.2000 in respect of land admeasuring Acs.2-08 gts situated in Sy.No.134 at Ganugapadu village, Chandrugonda mandal, Khammam District, contending as under:

- The transaction took place prior to the introduction/enactment of the Act and not hit by any Regulation – as such there is no violation of any LTR provisions.
- The initiation of such proceedings after lapse of many years is illegal and arbitrary one and same is not sustainable.
- Petitioner herein has produced sufficient documentary evidence i.e. sale agreement, revenue receipts to show his bonafide possession and enjoyment of the suit land.
- No tribal interest was involved and transaction is between non-tribals.
- Petitioner is a small farmer and possessing small extent of land which is only source of livelihood. The Respondents without appreciating ground realities trying to dispossess without any reason. In such event, it will affect his rights and any adverse order may cause great hardships.

In the reference 2nd read above, Government have sent copy of the Revision Petition to the Collector, Khammam and Special Deputy Collector (TW), Palvanha, Khammam District and requested to send parawise remarks and connected case records and in the reference 3rd read above, the District Collector, Khammam has submitted para-wise remarks along with connected case record. The gist of para-wise remarks is as under:

- The contention of the Petitioner is that he is in continuous possession and enjoyment of the suit schedule land since several years and that the sale transaction took place prior to the introduction of the Act – hence, not hit by any Regulation.
- In the lower court, the petitioner filed a Photostat copy of sada sale deed dated 20.6.1968 and land revenue receipts. The alleged sada sale deed is a Photostat copy and cannot be taken into consideration. The Petitioner must file the original sale deed said to have been executed by the 4th respondent (K.Hanumantha Rao).

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- In the lower court, it is clearly mentioned that the Revision Petitioner has not produced Pahani extract for the year 1969-70 or 1970-71 to prove his rightful possession over the suit land. After verification of Pahani extracts of these years, name of revision petitioner is not found. In the absence of entries in Pahani to prove his possession, alleged sale deed is not believable. The Revision Petitioner has failed to prove his possession prior to commencement of the Regulation by producing corroborative evidence to substantiate his legal possession and title over the suit schedule. Therefore, the lower court has rightly decided the case.
- Records reveal that Sy.No.134 consists of acs.16.00 in the name of Sri Kondapalli Hanumantha Rao as pattedar for the years 1968-69 to 1973-74, revision petitioner's name in occupant's column but with different ink and different hand writings. These entries were made subsequently by tampering revenue records to overcome clutches of the Regulation. The tampered records have no value in the eye of law.
- With regard to contention that no tribal is involved in the case, the presumption is that the entire land in the schedule area belongs to tribals unless the contrary is proved. The Regulation prohibits transfer of immovable property between two non-tribas after commencement of the Regulation 1/159 R/W 1/70. Therefore, contention of Revision Petitioner is not correct.
- Further, no exemption is provided in the Regulation to small and marginal farmers for contravention of provisions in transfer of immovable property in Agency area. Only the question is whether the sale transaction is hit by the Regulation or not.
- The Revision Petitioner failed to produce any corroborative evidence to prove his rightful possession over the suit land. The Mandal Revenue Officer, Chandrugonda had taken over possession of the suit schedule land from the petitioner and kept under custody of the Government on 26.4.1998 as per orders of Special Deputy Collector (TW) Palvancha.

3. In the reference 4th read above, Government have issued notices to concerned parties and conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government observed that;

4. Case was previously called on:

24.07.2007 ..	Counsel for petitioner present requested for adjourned, as Revision Petitioner was expired, and LR's to be brought on record. Adjourned.
16.08.2007 ..	Adjourned.
24.06.2010 ..	Counsel for petitioner present. Submitted Written Arguments. Petitioner and Respondent absent. Adjourned.
26.11.2016 ..	Revision Petitioner, his Counsel and Respondents absent. Adjourned.
28.01.2017 ..	Counsel for Revision Petitioner present. Directed him to file written arguments. Adjourned.
04.03.2017 ..	Adjourned.
15.04.2017 ..	Counsel for RP present and informed again that the RP was expired. The Counsel was directed to file Memo LR's. Adjourned.
27.05.2017 ..	Respondent present. Adjourned.
01.07.2017 ..	Counsel for RP present. Directed to file affidavit duly brought the LR's in the record.

5. Further case called on 07.11.2020. The Counsel for Revision Petitioner present has filed following written arguments:

- i) Petitioner is in peaceful possession and enjoyment of agricultural land admeasuring acs.2.03 guntas in Sy.No.134 situated in Ganugapadu (v),

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Chandrugonda Mandal, Khammam Dist. having purchased it through a sale document dt.6.7.1968 for valuable consideration from the vendor i.e. 4th respondent (K.HanumanthaRao) who is also non-tribe which took place prior to introduction of APSA LTR 1 of 1959 R/W 1 of 1970.

- ii) It is not a tribal land nor belongs to Government and is purely land of non-tribal – as such impugned order of 2nd respondent (SDC (TW) Palvancha) is not sustainable in any manner and the Regulation has no application in respect of the transaction as referred above.
- iii) Revision Petitioner is doing agriculture to eke out his livelihood and regularly paying taxes to the respondent authorities.
- iv) Without any complaint or any application from 4th respondent (K.Hanumantha Rao), the respondent authorities have initiated suo-motu proceedings against the petitioner for eviction on the ground of said transaction is contrary to LTR provision of 1/70 and without appreciating documentary evidence produced by the petitioner such as Tax receipts, Pahani copies etc. the learned Special Deputy Collector, Paloncha i.e. 2nd respondent has passed orders mechanically for ejectment from the schedule land – the said order is unjust, illegal and not sustainable.
- v) The 1st respondent (the Agent to Govt. Khammam) has also passed an order dt.5.12.2000 mechanically except making observations stating in respect of occupant's column of the pahanies, the name of petitioner is appearing with different ink and different handwriting and also on the ground sada sale deed is not duly stamped and registered. As per judgement of Hon'ble High Court AIR 1982 AI which was confirmed by AIR SC 1996 224 page – no registered document is required to prove possession of property.
- vi) The reasoning given by 1st respondent (the Agent to Govt. Khammam) is not proper and the petitioner is illiterate and question of tampering does not arise. It is curious to note that by verifying the record, the 1st respondent states that there is ink change which is not attributable against the petitioner since there is no fault on his part and there is no chance or any opportunity even into MRO office and admittedly there is no possibility to any citizen to enter into the record room and tampering any old record. The allegations are totally baseless and approach of the authorities is not proper one. The enquiry was not conducted well and no official persons were examined by the 2nd respondent or 1st respondent and there is no rebuttal evidence to the documentary evidence produced by the petitioner. The cistu receipts were issued by the revenue authorities and documents pertaining to old fasli i.e. 1969, 1971, 1972, 1974, 1975, 1977, 1979, 1982, 1993, 1996 and 1997 which were paid by the petitioner herein and the Department could have accepted them as evidence instead of rejecting summarily the genuine claim of the petition simply on mere suspension and unfounded reasons. Already the petitioner produced tax receipts etc. before the concerned respondents in this regard.
- vii) Both orders of the 1st and 2nd respondents are illegal, arbitrary and violation of principles of natural justice. The authorities could have seen that whether the transaction is prior to the enactment or not and however it is not for the authorities to say about validity of the sale transaction whether it is unstamped or unregistered etc. and it is for appropriate courts having jurisdiction to decide. The transfer of land from 4th respondent is with possession delivered before the enactment of the Act. As such the petitioner has satisfied the necessary ingredients to claim the rights as the transaction is much before the introduction of the Act 1/70. As such the impugned proceedings of the 1st respondent are not sustainable and liable to be set aside.
- viii) The 1st respondent has further erred in stating that there is an interpolation etc. The Government is the custodian of the records and

petitioner has nothing to do with the alleged corrections if any – the approach of the Respondents is not sustainable. The Respondents could have seen that apart from sale agreement and continuous documentary evidence clearing showing right of the petitioner – there is no violation of any of the provisions of the Act. At any event the impugned proceedings of both the respondents after a lapse of several years, is illegal and violation of principles of natural justice.

- ix) The petitioner has invested lot of amounts for purchase of property and also towards development. In the absence of any contrary evidence, it is not for the agency authorities (Revenue) to record findings with regard to agreement and other connected documents. The impugned proceedings will affect livelihood and rights. The Petitioner is continuing the possession and enjoyment of schedule land even as on today.
- x) Hence, in view of the above facts and circumstances, it is just and necessary to set aside the order of the 1st respondent dt.5.12.2000 passed in CMA No.26/98 and also order of 2nd respondent dt.13.11.1997 in LTR case No.611/96/CHG and allow the Appeal.

6. Perused the record.

7. As per orders of Special Deputy Collector(TW) Bhadrachalam in LTR case No.611/96/CHG dated 13.11.1997:

- Case was initiated on the report of Special Deputy Tahsildar (TW), Palvancha, dated 24.10.1996.
- Sri Kondapalli Hanumantha Rao (Non-Tribal) was proforma Petitioner and Sri Kilaru Nagaiah S/o VeeraSwamy (Non-Tribal) was Respondent.
- Case was finally called on 20.08.1997. Petitioner absent. Respondent present and filed sada sale deed dt.20.06.1968 and land revenue receipts on plain paper from 1969 to 1983, printed land revenue receipts for 1992-93, 1405F and 1406F but not produced pahani extract for the year 1969-70 or 1970-71 to prove his possession.
- Verified pahani extract brought by Special Deputy Tahsildar (TW) for the year 1969-70 and 1970-71 and found name of respondent recorded as occupant. In the absence of entries in pahani to prove his possession, no cognizance can be given to sada sale deed and land revenue receipts on plain papers.
- As per the evidence made available, it was proved that the transfer of immovable property belonging to non-tribal (petitioner) was made to another non-tribal (respondent) in contravention of sub-section (1) of Section 3 of APSA LTR I of 1959 R/W Regulation I of 1970 after the commencement of the said Regulation and hence, null and void.
- Therefore, exercising powers conferred under sub-section 2 (a) of Section 3 of the Regulation I of 1959, ejectment of Respondent or whoever in possession was ordered and taken into possession of the land admeasuring acs.2.03 gts situated in Sy.No.134 in Ganugapadu (v) by Mandal Revenue Officer, Chandrugonda under cover of panchanama and assign the same to eligible tribals as per rules in force.

8. Aggrieved by the above orders, Sri Kilaru Nagaiah had filed the Statutory Appeal U/s.3 (3) of APSALTR, 1959 R/W Ord.VII Rule 1 of CPC before the Agent to Government at Khammam. The Agent to Government, Khammam had disposed the CMA No.26/98 on 5.12.2000 making the following order:

- The Pahani is a revenue record which gives the basic information of a particular Sy.No. and its area and also the possession held by the person over the land.
- On verification of revenue records, Sy.No.134 consists of an extent of acs.16.00 and Sri Kondapalli Hanumantha Rao S/o Satyanarayana is

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pattedar for all the years 1968-69, 1969-70, 1970-71, 1971-72, 1972-73 and also 1973-74. Name of Kondapalli Hanumantha Rao is also existing for all the above years in occupation for an extent of acs.13.37 gts in the same Sy.No. whereas name of Kilaru Nagaiah is also existing in occupant's column for the years 1968-69, 1969-70 and 1970-71 only for an extent of acs.2.03 gts that too with different ink and different hand writings. From the entries available in the pahanies, the entry of name of Appellant is a subsequent development to come up on record with malicious intention.

- Appellant had filed Xerox copy of sada sale deed said to be executed on 20.6.1968 but failed to produce original sale agreement at any point of time during the course of trial of the case. Sada sale deed not duly stamped and registered U/s.17 (B) of Registration Act cannot be admitted as evidence, as observed by the Hon'ble High Court of AP in CRP No.1087/96, dated 10.8.1998 in the case of Bangaru Rama Tulisamma Vs Yada Mastan Reddy. Without producing any corroborative evidences to substantive to prove his legal right over the suits schedule land, it cannot be decided that the appellant is a rightful owner of the land under dispute.
- Land Revenue Receipts produced are on white paper chits without office seal and designation – therefore, could not be taken into consideration as proof.
- Land in question is located in Sy.No.134 of Ganugapadu village of Chandrugonda Mandal which falls under scheduled area. The transfer of immovable property belonging to a non-tribe to another non-tribal was made in this case in contravention of sub-section (1) of Section 3 as laid down in the APSA LTR 1 of 1959 r/w amended Regulation I of 1970, after commencement of the said Regulation – therefore, null and void. Further, appellant failed to establish his legal right over the suit schedule land.
- Therefore, orders passed by the lower court in LTR case No.611/96/CHG, dated 13.11.19978 were upheld.

9. Government after careful examination of the matter and written arguments with reference to the documentary evidences available on record. There is no force in the argument of the Revision Petitioner that the transaction took place prior to the introduction of the Regulation I of 1970 and the evidences produced by Revision Petitioner Sri Kilaru Nagaiah are not sufficient to prove his claim over the suit schedule land.

10. In the reference 6th read above, The Tahsildar, Chandrugonda Mandal has reported that the Revision Petitioner Sri Kilaru Nagaiah S/o.Veeraswamy was died and Notice was served to his daughter Smt.Chevula Radhamma W/o Gopaiah who acknowledged the same on 22.10.2020.

11. Therefore, further proceedings are abated in view of death of the Revision Petitioner Sri Kilaru Nagaiah and that his legal heirs/ representatives failed to attend nor file any LR petition during hearing on 7.11.2020 to contest the case which is pending since 10.7.2005 i.e. for more than (17) years.

12. The Agent to Govt., cum District Collector, Bhadradi Kothagudem District shall take necessary action accordingly. The original case records received in the reference 3rd read above are returned herewith to the District Collector, Bhadradi Kothagudem District and acknowledge the receipt of the same.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. CHRISTINA Z.CHONGTHU,
SECRETARY TO GOVERNMENT.

To

LR's of late Kilaru Nagaiah S/o.Veeraswamy R/o Ganugapadu(v)
Chandrugonda (M) Bhadradi Kothagudem District.
(through the Tahsildar, Chandrugonda Mandal)

(Contd...6)

K.Hanumantha Rao S/o Satyanarayana (Respondent)
R/o Ganugapadu Village, Chandragonda Mandal,
Bhadradi Kothagudem District
(Through the Tahsildar, Chandrugonda Mandal)
The Agent to Govt., cum District Collector, Bhadradi Kothagudem District
(with connected records) (w.e.) (BY RPAD)

Copy to:-

The Agent to Govt., cum District Collector, Khammam District
The Special Deputy Collector (TW), Bhadrachalam,
Bhadradi Kothagudem District
The Tahsildar, Chandrugonda Mandal, Bhadradi Kothagudem District
(With a request to serve the same to the Revision petitioner and unofficial
Respondent and submit the dated acknowledgement)
Sri K.Vinaya Kumar, T.L.K. Sharma, Advocates,
Gandhinagar, SBI Colony, Near Play ground No.2, Hyderabad -500080.
The P.S to Hon'ble Minister M(TW)
The PA Spl.Secretary (TW).
The PA Spl.Secretary (TW).
SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER.